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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,367	12/03/2003	Robert C. Becker	P02,0126 01 H0003414 DIV	7123
128	7590	03/22/2006	EXAMINER	
HONEYWELL INTERNATIONAL INC. 101 COLUMBIA ROAD P O BOX 2245 MORRISTOWN, NJ 07962-2245			NGUYEN, KIMBERLY D	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary

Application No.

10/726,367

Applicant(s)

BECKER ET AL.

Examiner

Kimberly D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-71 and 73-77 is/are pending in the application.
- 4a) Of the above claim(s) 37-51, 76 and 77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-36, 52-71 and 73-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Amendment

1. Acknowledgment is made of Response to Restriction Requirement filed January 9, 2006, which applicant provisionally elects to prosecute claims 25-36 and 52-75, which is drawn to Group I directed to figures 1 and 3. However, claim 72 has been cancelled by applicant (see Introduction of Response to Restriction Requirement filed January 9, 2006). Accordingly, claims 25-36, 52-71 and 73-75 have been examined as set forth in the instant Office action. Claims 37-51 and 76-77 are withdrawn from further consideration by the examiner, 37CFR 1.142(b), as being drawn to non-elected claims.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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3. Claims 25-36, 52-71, and 73-75 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,726,099.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed invention is a broader recitation of patent '099. For example, in claim 25 of the present invention and claim 1 of patent '099, the applicants claim:

“An RFID tag comprising a first transceiver arranged to transmit and receive first signals to and from a first reader;” whereas in patent '099, the applicants claim “A method of communicating information between an RFID tag and first and second readers, the method comprising controlling a first transceiver of the RFID tag so that the first transceiver communicates with the first reader...” (col. 11, lines 24-33) and

“a second transceiver arranged to transmit and receive second signals to and from a second reader.” whereas in patent '099, the applicants claim “controlling a second transceiver of the RFID tag so that the second transceiver communicates with the second reader...” (col. 11, lines 34-37)

Thus, the instant claimed invention obviously encompasses and is generic to the claimed invention of patent '099. Accordingly, generic claim cannot be issued without a terminal disclaimer. See > In re Goodman, 11 F.3d 1046, 1053, 29 USPQ2d 2010, 2016 (Fed. Cir. 1993);< In re Braithwaite, 379 F.2d 594, 154 USPQ 29 (CCPA 1967).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 25-26, 28, 30-31, 52-53, 55, 57-58, 64-65, 67, and 69-71 are rejected under 35

U.S.C. 102(e) as being anticipated by Ohta et al. (US 6,942,156; hereinafter "Ohta").

Ohta teaches an RFID tag (1) comprising

a first transceiver (non-contact IC chip) arranged to transmit and receive first signals to and from a first reader; and

a second transceiver (magnetic stripes) arranged to transmit and receive second signals to and from a second reader (col. 10, lines 16-32; col. 23, lines 23-25; col. 24, lines 25-27; col. 4, line 7 through col. 5, line 65).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 32, 34, 36, 59, 61, 63, 73, and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohta in view of McDonald (US 6,211,781). The teachings of Ohta have been discussed above.

Ohta fails to teach or fairly suggest wherein the first transceiver comprises a duty cycled receiver and a transmitter.

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McDonald teaches RFID tag 119 waits for an interrogation signal to be received by receiver 204. If tag 119 does not receive an interrogation signal, tag 119 continues to wait. If tag 119 does receive an interrogation signal, then a response signal is transmitted by transmitter 208 (col. 3, line 64 through col. 4, line 25), wherein “waiting until receiving an interrogation signal” is a duty cycled receiving; and wherein the first transceiver is arranged to transmit data in a time slot pseudo-randomly selected by the RFID tag as set forth in claim 36/63 (col. 5, lines 12-44).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate a tag waiting for interrogation signal as taught by McDonald to the teachings of Ohta in order to allow the tag communicating with the tag reader only when the tag-reader requesting the information from the tag to further limit collision by two or more tags transmitting simultaneously.

Allowable Subject Matter

8. Claims 27, 29, 33, 35, 54, 56, 60, 62, 66, 68, and 74 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter:

The best prior art of record fails to teach or fairly suggest wherein the first transceiver comprises a frequency agile transmitter and a direct sequence spread spectrum receiver.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 571-272-2402. The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KDN
March 11, 2006